

UNOFFICIAL COPY



PREPARED BY AND AFTER
RECORDING, RETURN TO:

ARONBERG GOLDGEHN DAVIS & GARMISA
ONE IBM PLAZA, SUITE 3000
CHICAGO, ILLINOIS 60611
ATTN: ROBERT N. SODIKOFF

0011039910

8806/0151 52 001 Page 1 of 8
2001-11-06 13:41:31
Cook County Recorder 35.50



0011039910

PROPERTY ADDRESS:

Southwest Corner of Dundee and
Arlington Heights Road,
Buffalo Grove, Illinois 60089

P.I.N.: 03-07-201-015, 016 and 018

35.50

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3374483-9007
74903 KSR

**AMENDMENT NO. 1 TO LOAN AGREEMENT, NOTE, MORTGAGE,
ASSIGNMENT OF RENTS AND RELATED LOAN DOCUMENTS**

This Amendment ("Amendment") is made effective as of the 10th day of July, 2001, by and among AMALGAMATED BANK OF CHICAGO, not personally, but solely as trustee ("Trustee") under Trust Agreement dated August 6, 1999, and known as Trust No. 5835 ("Trust"), and AETNA PROPERTIES, L.L.C., an Illinois limited liability company ("Beneficiary") the sole beneficiary of the Trust (Trustee and Beneficiary are herein collectively referred to as "Borrower") and U.S. BANK NATIONAL ASSOCIATION, as successor to FIRSTAR BANK ILLINOIS ("Lender").

RECITALS:

A. Borrower and Firststar Bank Illinois, as predecessor to Lender, have entered into a certain Loan Agreement (Acquisition Loan) dated January 14, 2000 (the "Loan Agreement") for the purpose of financing Borrower's purchase and development of the Plaza Verde Shopping Center in Buffalo Grove, Illinois (the "Project").

B. In connection with the Project, pursuant to the Loan Agreement Borrower applied to Lender for financing in the amount of Three Million Nine Hundred Twenty Thousand and 00/100 Dollars (\$3,920,000.00) (the "Loan") evidenced by an Acquisition and Construction Note dated January 14, 2000, (the "Note") in said principal amount, which Note is secured by, among other things, the following documents, each of which is dated as of January 14, 2000:

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- (i) Mortgage and Security Agreement ("Mortgage") made by Borrower to Lender on the property described on Exhibit A attached hereto and incorporated herein by reference, recorded with the Recorder of Deeds of Cook County, Illinois as document 00045879;
- (ii) Assignment of Leases and Rents ("A/R") made by Borrower and Aetna Properties, L.L.C., beneficiary of Borrower ("Beneficiary") to Lender recorded with the Recorder of Deeds of Cook County, Illinois as document 00045880;
- (iii) Guaranty of Payment and Performance made by George Hanus, as Guarantor (the "Guaranty");
- (iv) Collateral Assignment of Beneficial Interest in Land Trust from Beneficiary to Lender ("ABI"); and
- (v) Security Interests in certain described chattels as disclosed by filed and/or recorded UCC Financing Statements executed by Trustee and/or Beneficiary.

C. Borrower has requested that Lender amend the Loan Agreement, Note and Mortgage to extend the Maturing Date to July 10, 2002 and Lender has agreed to subject to Borrower agreeing to the terms and conditions contained in this Amendment.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

1. The Recitals set forth above are hereby incorporated herein and made a part hereof.
2. Except as otherwise expressly indicated herein, all capitalized terms used herein shall have the same meaning ascribed to them in the Loan Agreement, Note, Mortgage and Guaranty and the other documents referred to therein. All references in the Loan Agreement, the Note, the Mortgage, and the Guaranty or other loan documents to any of the other Loan Documents shall mean such document as amended hereby.
3. U.S. Bank National Association is hereby substituted for Firststar Bank Illinois as Lender for all purposes and all references to "Lender", "Bank" or "Mortgagee", as applicable, in the Loan Agreement, Note, Mortgage, A/R, ABI, Guaranty and other Loan Documents shall mean U.S. Bank National Association. For notice purposes the address of Lender is:

U.S. Bank
 701 Lee Street
 Des Plaines, IL 60016
 Attention: James J. West

4. The Loan Agreement, Note, Mortgage and other Loan Documents are hereby amended to change the Maturity Date from July 10, 2001 to July 10, 2002. Borrower shall have no right or option for any additional extension of the Maturity Date.

5. The Loan Agreement is further amended by adding a new Section 6.1(0) to the Loan Agreement as follows:

“(0) Borrower will pay a non-refundable renewal fee of \$9,800.00 upon execution of this Amendment, which shall for all purposes be fully earned when received by Lender.”

6. Borrower hereby agrees to pay all expenses, charges, costs and fees relating to this Amendment, including the renewal fee and Lender's reasonable attorneys' fees in connection with the negotiation and documentation of the agreements contained in this Amendment, all recording fees and charges, title insurance charges and premiums, and all other expenses, charges, costs and fees referred to in or necessitated by the terms of this Amendment (collectively, the "Additional Loan Expenses"). In the event the Additional Loan Expenses are not paid to Lender within ten (10) days after written demand therefor by Lender, the Additional Loan Expenses shall bear interest from the date so incurred until paid at the Default Rate, or may be paid by Lender at any time following said ten (10) day written demand by disbursement of proceeds of the Loan.

7. Borrower represents and warrants to Lender that it has full power and authority to execute and deliver this Amendment and to perform its obligations hereunder. Upon the execution and delivery hereof, this Amendment will be valid, binding and enforceable upon the Borrower in accordance with its terms. Execution and delivery of this Amendment does not and will not contravene, conflict with, violate or constitute a default under any applicable law, rule, regulation, judgment, decree or order or any agreement, indenture or instrument to which Borrower is a party or is bound or which is binding upon or applicable to the project, or any portion thereof.

8. Borrower acknowledges that the Outstanding Principal Balance of the Note is currently Three Million Seven Hundred Twenty Four Thousand Nine Hundred Forty-Two and 00/100 Dollars (\$3,724,942.00). Borrower represents and warrants to Lender that after giving effect to this Amendment no Event of Default or event or condition which could become an Event of Default with the giving of notice or passage of time, or both, exists under the Loan Agreement, the Note, the Mortgage, the Guaranty or any of the other Loan Documents.

9. Borrower hereby ratifies and confirms Borrower's liabilities and obligations under the Loan Agreement, the Note, the Mortgage, and the other Loan Documents, all as amended by this Amendment, and the liens and security interests created thereby, and acknowledges that Borrower has no defenses, claims or setoffs to the enforcement by Lender of the obligations and liabilities of Borrower under the Loan Agreement, the Note, the Mortgage, and the other Loan Documents, all as amended by this Amendment.

10. Contemporaneous with the execution hereof, Borrower shall cause Guarantor to execute and deliver to Lender the Reaffirmation attached to this Amendment, fully executed by Guarantor.

11. Except as expressly provided herein, the Loan Agreement, the Note, Mortgage, A/R, ABI, Guaranty and the other Loan Documents shall remain in full force and effect in accordance with their respective terms.

12. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall be one document.

13. This Amendment is executed by Amalgamated Bank of Chicago, not personally but solely as Trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in said Trustee, and it is expressly understood and agreed that nothing in this Amendment shall be construed as creating any personal liability on said Trustee to perform any covenant, either express or implied herein contained, all such liability, if any, being expressly waived by Lender and by every person now or hereafter claiming any right or security hereunder.

IN WITNESS WHEREOF, this Amendment has been entered into as of the date first above written.

AMALGAMATED BANK OF CHICAGO, not personally but solely as Trustee as aforesaid

By: [Signature]
Name: IRVING B. POLAKOW
Title: SENIOR VICE PRESIDENT

AETNA PROPERTIES, L.L.C., an Illinois limited liability company

[Signature]
George Hanus, President

U.S. BANK NATIONAL ASSOCIATION

By: [Signature]
Name: EUGENE P. TUNNEY
Title: VICE PRES

REAFFIRMATION

George Hanus, as Guarantor (the "Guarantor") hereby consents to the modifications provided in the foregoing Amendment, and hereby expressly ratifies and reaffirms all of his liabilities and obligations as Guarantor under the Guaranty executed by Guarantor in favor of Lender and agrees to be bound by and abide by and operate and perform under and pursuant to and comply fully with all of the terms, conditions, provisions, agreements, representations, undertakings, warranties, guaranties, indemnities, grants of security interests and covenants contained in the Guaranty, notwithstanding that such obligations may be increased, modified or amended by the foregoing Amendment amending the Loan Agreement and the Note guaranteed thereunder. Guarantor acknowledges that he has no defenses, claims or set-offs to the enforcement of the Guaranty as amended by the Amendment.

IN WITNESS WHEREOF, the undersigned has executed this reaffirmation effective as of the 10th day of July, 2001.



George Hanus

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

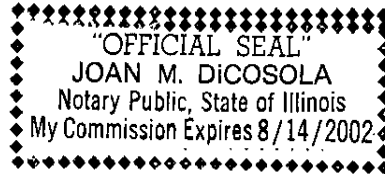
The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that IRVING B. POLAKOW the SENIOR VICE PRESIDENT of AMALGAMATED BANK OF CHICAGO, not personally but solely as Trustee as aforesaid, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such SENIOR VICE PRESIDENT appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 14th day of August, 2001.

Joan M. DiCosola

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)



The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that George Hanus the President of AETNA PROPERTIES, L.L.C., an Illinois limited liability company and personally as Guarantor, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such President and individually appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 13th day of August, 2001.

Thomas H. Page

Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)



The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that Eugene P. Tunney the Vice Pres. of U.S. BANK NATIONAL ASSOCIATION, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Vice Pres. appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 16 day of August, 2001.

Sonia Fernandez
Notary Public



EXHIBIT A

Legal Description

PARCEL 1:

LOT 2 IN BARBARA RESUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED OCTOBER 19, 2000 AS DOCUMENT NO. 00818536, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 1 IN PLAZA VERDE UNIT ONE, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 29, 1975 AS DOCUMENT 23237770, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY DECLARATION AND AGREEMENT OF EASEMENT DATED APRIL 14, 1975 AND RECORDED SEPTEMBER 29, 1975 AS DOCUMENT 23237771 FOR THE PURPOSE OF INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED LAND:

LOT 2 IN PLAZA VERDE UNIT TWO, A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS, RECORDED JULY 11, 2001 AS DOCUMENT 0010612471 FOR THE PURPOSE OF INGRESS AND EGRESS, PARKING, UTILITIES, ETC.

PINS: 03-07-201-015-0000; 03-07-201-016-0000; 03-07-201-018-0000

ADDRESS: SOUTHWEST CORNER OF THE INTERSECTION OF DUNDEE ROAD AND ARLINGTON HEIGHTS ROAD, BUFFALO GROVE, ILLINOIS

EXHIBIT ALEGAL DESCRIPTION

(continued)

The foregoing Parcels 1 and 2 are also described as follows:

LOTS 1 AND 2 (EXCEPT THAT PART OF LOT 2 DEDICATED FOR ROAD PURPOSES BY DEDICATION RECORDED AS DOCUMENTS 86425148 AND 86425149 AND DEED RECORDED AS DOCUMENT 87300644); ALSO EXCEPT THAT PART OF LOT 2 DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES 45 MINUTES 20 SECONDS EAST ALONG THE NORTHERLY LINE OF SAID LOT 2, A DISTANCE OF 513.15 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 01 MINUTES 10 SECONDS EAST ALONG A LINE THAT IS 422.21 FEET WESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE EASTERLY LINE OF SAID LOT 2, A DISTANCE OF 256.71 FEET TO A LINE THAT IS 256.71 FEET SOUTH OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 89 DEGREES 45 MINUTES 37 SECONDS EAST ALONG SAID PARALLEL LINE, 240.96 FEET TO A LINE THAT IS 181.25 FEET WESTERLY OF, AS MEASURED AT RIGHT ANGLES TO, AND PARALLEL WITH SAID EASTERLY LINE; THENCE NORTH 00 DEGREES 01 MINUTES 10 SECONDS EAST ALONG SAID PARALLEL LINE, 246.81 FEET TO THE SOUTHERLY LINE OF LAND DEDICATED FOR ROADWAY PURPOSES, RECORDED AS DOCUMENT NO. 86425148 IN COOK COUNTY, ILLINOIS; THENCE SOUTH 89 DEGREES 45 MINUTES 20 SECONDS WEST ALONG SAID SOUTHERLY LINE, 83.21 FEET TO AN ANGLE POINT IN SAID SOUTHERLY LINE; THENCE NORTH 86 DEGREES 00 MINUTES 30 SECONDS WEST ALONG SAID SOUTHERLY LINE 135.38 FEET TO THE MOST WESTERLY CORNER OF SAID LAND DEDICATED FOR ROADWAY PURPOSES, SAID CORNER BEING ON THE NORTHERLY LINE OF SAID LOT 2; THENCE SOUTH 89 DEGREES 45 MINUTES 20 SECONDS WEST ALONG SAID NORTHERLY LINE, 22.65 FEET TO THE POINT OF BEGINNING); IN PLAZA VERDE UNIT ONE, BEING A SUBDIVISION OF PART OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SECTION 7, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 29, 1975 AS DOCUMENT 23237770, IN COOK COUNTY, ILLINOIS.